

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): G. Menon et al.

Group Art Unit: 1654

Serial No.: 10/034,336

Examiner: Susan D. Coe

Filed: December 28, 2001

For: TOPICAL COSMETIC COMPOSITION HAVING A NATURAL PLANT ACTIVE  
INGREDIENT AND METHOD OF USING SAME

**Declaration Under 37 C.F.R. 1.132**

Dear Sir:

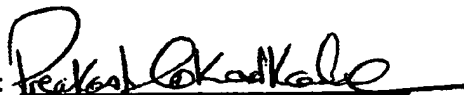
I, Prakash G. Kadkade, declare and state that:

1. I am currently a consultant in the area of phytochemicals for the food, pharmaceutical and cosmetic industries. From 1991 to 2003, I was employed by Phyton, Inc., a company that specializes in the manufacture of biological materials, in particular of botanicals from cell cultures. From 1993 to 2003 I was Vice President and Chief Scientific Officer at Phyton, Inc. Prior employers include Biotech & Diagnostic Associates (President), BioTechnica International, Inc., Florogenics, Inc., GTE, and Anheuser Busch, Inc. I am the author of over 50 publications and have been granted 20 patents, with 40 patent applications pending.
2. I have a Bachelors of Science in Biology/Chemistry from University of Bombay (1962); a Masters of Science in Biology/Chemistry from University of Bombay (1964) with specialization in Mycology, Microbial Physiology and Plant Pathology, and a Doctorate in Biological Sciences/Biochemistry from St. Louis University (1969).
3. I have read the Office Action dated February 13, 2004 received by the Applicants in connection with the above-identified application.
4. I have also read the references cited by the Examiner in connection with the

rejection of Claims 1 and 2; namely, U.S. Patent No. 5,660,840 (Pruett) and U.S. Patent Application No. 2002/068326A1 (Lore).

5. The Examiner states in paragraph 8 of the Office Action that "coconut water is defined as the same substance as coconut milk", citing Lore.
6. The term "coconut milk" includes the liquid obtained by expressing the pulp of the coconut fruit. On the other hand, "coconut water" is the liquid present in the hollow interior of young coconut seeds and which the coconut seeds utilize for growth. Accordingly, Lore's use of the term "coconut milk" to describe only the liquid inside the coconut seed is incorrect.
7. Coconut water is chemically different from coconut milk.
8. In my opinion it is not correct to substitute the Lore coconut water for the Pruett coconut milk as they are different.
9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine of imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: JUNE 22, 2004

By:   
Name